IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Writ Petition No.1403 of 2007
With
Criminal Writ Petition No.1404 of 2007

Bhandari Deepak Industries (P) Ltd.
and anr. Petitioners
Vs.
Rajlaxmi Chemical Industries & anr. Respondents

Mr.Prasad Dani for petitioners.
Mr.A.S.Shitole, APP for State.

CORAM: B.H.MARLAPALLE, J.

September 27, 2007.

P.C.

. Heard Mr.Dani, the learned counsel for the petitioners. The relief sought in both these petitions is similar viz. quashing of the proceedings in Summary Case No.7126/2006 and 7366/2006 presently pending before the learned Judicial Magistrate, First Class at Pimpri and hence both the petitions are being disposed by a common order.

. The main contention of the petitioners is that the dishonoured cheques amount has been already remitted by Demand Drafts in the sum of Rs.1,25,000/- and Rs.1,29,043/- before the demand notice under Section 138 of the Negotiable Instruments Act, 1881

was received by the petitioners from the complainant. Whether the demand drafts have been received by the complainant and whether demand drafts amount is against the repayment of the amounts concerning the dishonoured cheques are both the issues which are required to be proved before the trial Court by leading evidence and more so in spite of the reply to the demand notice clarifying that the amounts were already repaid by demand drafts, the complainant has proceeded to file the complaints. Hence, there is no case to invoke the inherent powers under Section 482 of Cr.P.C. and quash the proceedings on such grounds.

. Hence the petitions are rejected. However, if the petitioners are staying in Himachal Pradesh as has been claimed, their appearance is exempted before the trial Court till the stage of cross-examination of the complainant, provided they are represented through a lawyer.

(B.H.MARL